



CITIZENS UNION OF THE CITY OF NEW YORK
Testimony to the
Committee on Rules, Privileges and Elections of the New York City Council
On Reform of the Council's Rules
February 24, 2014

Good morning, Chair Lander, and members of the Committee on Rules, Privileges and Elections. My name is Dick Dadey and I am the Executive Director of Citizens Union of the City of New York. I'm joined by our Director of Public Policy and Advocacy, Alex Camarda. Citizens Union is a nonpartisan good government group dedicated to making democracy work for all New Yorkers. Citizens Union serves as a civic watchdog, combating corruption and fighting for political reform. We work to ensure fair and open elections, honest and efficient government, and a civically-engaged public.

Citizens Union commends the City Council for holding this first ever public hearing today on reform of the Council's rules.. This hearing marks a continued effort to improve the operations of the City Council that began in earnest in 2006, and has long been championed by Citizens Union.

Citizens Union seeks rules that establish a more meaningful role for rank-and-file members, yet allow the Council to serve as a needed and strong counterweight to a powerful mayoralty. We believe that a Council in which all of its diverse members feel they are an integral part of the body will result in more collaboration that has the potential to create strong consensus. In doing so, members are better able to represent the constituents they serve and hold agencies accountable for efficient and effective service delivery.

It is with this overarching principle in mind that we issue our essential recommendations that should be part of any rules reform package and were supported in October 2013¹ by 32 members of the current Council. **Citizens Union's essential must-do rules reforms are:**

- 1. Fairly allocate discretionary funding;**
- 2. Ensure the independence and integrity of the bill drafting process;**
- 3. Convene a task force to explore how best to reduce the number of Council committees that empowers members to focus on key issues and not be spread too thin; and**
- 4. Create a culture that allows for implementation of existing rules.**

¹ Available at: <http://bradlander.com/news/updates/city-council-rules-reform-for-2014-council-session>

Previous Council Reforms

These recommendations are the outgrowth of years' long advocacy related to Council rules. Citizens Union in 2006 released a groundbreaking report, [*Principles of Council Reform: Ideas for a More Democratic and Effective City Council \(2006\)*](#)², providing a blueprint for Council reform with recommendations that were widely discussed as part of the speaker debates in 2013 and are part of the discussion at this hearing today. Citizens Union in 2010 reviewed progress made to reform the rules, releasing a report card that evaluated reforms put in place in 2006 and 2010: [*Grading the New York City Council's Rules and Budget Reforms \(2010\)*](#).³ We also examined in-depth in 2012 the Council's discretionary funding process, releasing a comprehensive report detailing the allocations of individual members for expense and capital funding, as well as the process as a whole: [*Creating a More Objective and Equitable Discretionary Funding Process in New York City \(2012\)*](#).⁴

Working with the previous Council and the Council Rules Reform Task Force that was co-chaired by current councilmember Dan Garodnick, Citizens Union was able to press for and see many changes to Council rules suggested in our reports. For the purposes of history as we look forward, it is important to note those reforms:

1. Reduced from 9 to 7 the number of members needed to discharge a bill to the floor;
2. Enabled any member to make an amendment to a bill on the General Order Calendar at stated meetings;
3. Required bills be drafted within 60 days by legislative staff;
4. Established semi-monthly caucus meetings for the speaker to brief members on issues and bills of importance;
5. Created a formal, transparent, and application and review process for discretionary funding. . The Council has put expense funding online (so-called "schedule C"); indicated which members sponsor particular allocations for both expense and capital funding; required pre-clearance for organizations receiving funds; and identifying whether fiscal conduits were used to direct the funds;
6. Webcasted and telecasted live Council proceedings including committee hearings and archiving them online⁵;
7. Made Council briefing papers, testimony, minutes and other materials from hearings online more accessible to the public through a revamped legislative search tool; and

² See: http://www.citizensunion.org/www/cu/site/hosting/reports/cureport_2006councilreform.pdf

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See: http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Council_Reform_ReportCard_wAppendix_Jan2010.pdf

⁴ See:

http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Report_NYC_Discretionary_FundingFY2009-2012_May2012.pdf

⁵ See: http://www.council.nyc.gov/html/pr/pr_042712.shtml

8. Restricted Council advertising by Councilmembers to town halls and other government-sponsored events.⁶

Reforms Supported by 32 Members of this Council

While the improvements to Council rules discussed above are notable, there are many more additional reforms that need to be made to improve the operations of the Council. The Progressive Caucus recognized as much this past fall and on October 30th, 32 Councilmembers who are now part of the Council today held a press conference indicating their support for further reforms of Council rules. **Citizens Union was pleased to be part of putting together the rules reform platform supported by the 32 Councilmembers and believes it should be the starting point for our discussion today on rules reform.**

Citizens Union in particular believes the following 4 reforms from that package are essential and should be in any final rules reform package:

1. **Fairly allocate discretionary funding (both capital and expense) by equally dividing funds between members or use of a transparent formula agreed upon in advance.** Citizens Union supports this principle backed by the majority of the Council. Equally dividing member items between Councilmembers or using a needs-based formula for division is preferable to the current approach, which is too often politicized, and gives too much discretion to the Speaker.

Citizens Union has suggested that for expense funds, half be divided among the members and half be allocated according to a needs-based formula. For capital funds, which are nearly three times the size of expense funds, Citizens Union supports allocation entirely by a needs-based formula.

We recognize the challenges in creating a formula that truly expresses need and doesn't shortchange districts that overall may be less needy but still have pockets of economically disadvantaged areas. We have not prescribed the exact formula but believe socioeconomic factors should be considered. These factors in a formula may include the following: foodstamp recipients; individuals receiving free or reduced price school lunches; Medicaid recipients; individuals under the poverty line; individuals under 18 and over 65 (recognizing the Council's historic awarding of funds to individual members for Aging and Youth programs); ratio of open space; availability of public transportation; rising number of new students in need of classrooms; and facilities providing services in the district. Additional factors for capital funding might include potential long-

⁶ See:

http://search1.nyc.gov/search?q=cache:7e7184WJCHOJ:www.council.nyc.gov/downloads/pdf/newswire/11.15.07%2520prestated.rel.doc+council+rules&output=xml_no_dtd&site=council_collection&proxystyle=sheet=council_frontend&client=council_frontend&ie=UTF-8&access=p&oe=UTF-8

term benefits to communities in terms of job growth and attracting business; the number of individuals who would benefit; and the current presence and quality of facilities or equipment (i.e. the number of parks or homeless shelters in or serving districts, or neighborhoods whose schools need repairs or have a large influx of students requiring new schools to be built), among other measures.

Because creating a formula that truly reflects need is difficult, Citizens Union recommends that if a formula is to be used rather than an equal division of funds among members, a public hearing be held on a proposed formula so the public and impacted organizations or communities can voice their opinion. Any formula should also be fixed for a time, with only a supermajority of the Council able to change it before the period has expired for example to address an event like Superstorm Sandy or 9/11.

It is notable that allocating funds equitably to all Councilmembers or through a needs-based formula would very likely result in more funds for almost all individual members. This is because in years past a handful of members received supersized allocations of both expense and capital funds. A very small subset of expense funds also went to individual members in years past because the Speaker had a pot of expense funds that was twice the size of the amount allocated to individual members. We therefore also support more of the expense funds going to members rather than being part of the Speaker's pot by limiting the Speaker's pot to no more than ½ the amount allocated to members.⁷

Citizens Union also supports additional transparency measures to ensure that the public has full information about the discretionary funding process, such as creation of a database for capital funds, as well as requiring disclosure of Schedule C and capital funds 3 days prior to a Council vote.

- 2. Establish an independent bill drafting office that drafts bills for members in an equitable and transparent manner.** While current Council rules require that bills be drafted within 60 days, Councilmembers report to Citizens Union that this rule was often violated and that the bill drafting process was too often politicized in recent years. Bills not favored by the speaker's office at least in some instances took many months to draft while those that were supported were quickly completed. Other bill drafting requests were deemed "too similar" to existing bills without a standard for what is "too similar" being established. Some bills were not drafted as all because it was determined they were not legally permissible because they were preempted by existing case or state law

⁷ For more data and proposed reforms on the allocation of discretionary funding, see Citizens Union's report, "Creating A More Equitable and Objective Discretionary Funding Process in New York City."

Available at:

http://www.citizensunion.org/www/cu/site/hosting/Reports/CU_Report_NYC_Discretionary_FundingFY2009-2012_May2012.pdf

even though those determinations can be highly subjective and, in fact, are often litigated for that very reason. Councilmembers are not told when another member has put in a bill that is “too similar” to their own, unnecessarily thwarting potential collaboration and discussion.

For these reasons, Citizens Union supports greater independence in the drafting of bills. The state’s Legislative Bill Drafting Commission serves as one potential model, but the integrity of the drafting process matters more than the structure or even existence of a separate office. Bills should be generally drafted on a first in, first out model. A spreadsheet should be created, if it doesn’t exist already, showing each LS request that has been made, the title of the bill, its designated committee of origin, when it was first made, who the bill drafter is, and the status of the drafting. That should be made accessible to all Councilmembers, if not the general public, to read and review as is likely the case under Freedom of Information Laws anyway. Committee counsels should report to the committee chairs for the purposes of work related to the committees but when it comes to bill drafting, they should work for the Council as a whole. That means when drafting, counsels should report to the member who made the LS request. One possible method is to have a lawyer from the bill drafting service assigned to a designated councilmember during his or her term in office. Citizens Union also backs other proposals made by the 32 Council reformers to improve the bill drafting process. **Citizens Union supports the practice of counsels providing legal memos to members explaining why a bill is not legally advisable (for example, if preempted by state or federal laws) when it is advised that a proposal should not be drafted and the practice of including a sponsor’s memo with bills drafted so other members and the public understand the rationale for the bill’s introduction.**

- 3. Appoint a task force to review the committee structure and scheduling of meetings that leads to sprawling committee assignments. Citizens Union supports the calling of a task force to address this issue as proposed by the 32 Council reformers. While this Council has already acted to continue past practice of having far too many committees, Citizens supports convening a Task Force to address the matter prospectively. We believe the number of Council committees should be reduced by half.** The Council currently has 36 Council standing committees⁸, 4 subcommittees⁹, 3 land use subcommittees¹⁰, and 3

⁸ The following are standing committees: Aging; Civil Rights; Civil Service & Labor; Community Development; Consumer Affairs; Contracts; Cultural Affairs, Libraries & International Intergroup Relations; Economic Development; Education; Environmental Protection; Finance; Fire & Criminal Justice; General Welfare; Governmental Operations; Health; Higher Education; Immigration; Juvenile Justice; Land Use; Mental Health. Developmental Disability, Alcoholism, Drug Abuse & Disability Services; Oversight & Investigations; Parks & Recreations; Public Housing; Public Safety Recovery and Resiliency; Rules, Privileges & Elections; Sanitation & Solid Waste Management;

task forces¹¹ for a total of 46 Council committees, subcommittees or task forces. Before Speaker Gifford Miller led the Council, the Council had only 31 standing committees. By contrast, Citizens Union noted in its 2006 report that the City of Chicago has 50 aldermen but only 19 standing committees.¹² Similarly, the U.S. House of Representatives has 20 standing committees for 435 members.¹³ Because there are so many committees, Councilmembers are spread thin among them, and it makes it more challenging for members to attend all the meetings which often occur simultaneously, perform their oversight function, become deeply familiar with the issues, or develop meaningful legislation that benefits the city or their districts. The most visible evidence of this is how rarely Councilmembers actually attend and/or stay for the entire time at Council committee meetings and hearings most often because of conflicting demands. In most cases, only the chair and counsel is present for most of the hearing. This means the other committee members are not hearing useful information firsthand from those testifying that could better equip members to do their jobs. Thirty-two current Councilmembers committed to establish a task force to examine the committee structure. Having already established 46 committees, the Council needs to at the very least create this task force and act on its recommendations in the future. During Citizens Union's candidate evaluation process, twenty-nine Councilmembers, including Speaker Melissa Mark-Viverito and Rules Committee Chair Brad Lander, have indicated support for reducing the number of committees.¹⁴ The Council needs to address this structural flaw through the Task Force and more immediately, establish regular committees with adequate advance notice if changed so members can sit through hearings without having to traverse between them simultaneously.

4. Enforce existing rules. Current rules already give committee chairs the independence to identify and schedule committee hearing topics, designate counsels, and issue subpoenas with the consent of the entire council. Citizens

Small Business; Standards & Ethics; State & Federal Legislation; Technology; Transportation; Veterans; Waterfronts; Women's Issues; Youth Services

⁹ The following are subcommittees: Drug Abuse; Senior Centers; Non-Public Schools; Libraries

¹⁰ The following are land use subcommittees: Landmarks, Public Siting & Maritime Uses; Planning, Dispositions & Concessions; and Zoning & Franchises.

¹¹ The following are task forces: Hospital Closings; Infrastructure; Operations & Improvements of the Department of Buildings

¹² Citizens Union. "Principles of Council Reform: Ideas for a More Democratic and Effective City Council," January 2006, p. 28. Available at:

www.citizensunion.org/www/cu/site/hosting/reports/cureport_2006councilreform.pdf

¹³ Ibid.

¹⁴ Councilmembers supporting reducing the number of council committees are Councilmembers Cornegy, Constantinides, Crowley, Dromm, Garodnick, Gentile, Greenfield, Ignizio, Johnson, Kallos, King, Koo, Koslowitz, Lander, Levine, Maisel, Mark-Viverito, Matteo, Menchaca, Mendez, Richards, Rose, Rosenthal, Torres, Treyger, Ulrich, Vallone, Van Bramer, Williams. See *CITIZENS UNION ANNOUNCES MAJORITY SUPPORT IN NEW YORK CITY COUNCIL FOR LONG-NEEDED COUNCIL RULES REFORMS*, Available at: <http://e2.ma/webview/9xkge/39215e4f81cbbd2a9043c3be87ac1a1a>

Union supports these and other existing rules giving Councilmembers greater independence. We also support enabling members to file grievances if Council rules are not being followed. However, the real change that needs to occur is a cultural one.

Whether these rules are clear enough needs to be addressed. Designating a committee counsel is different from hiring such a person. We believe it should be a joint decision. Designating a hearing topic is different from having the unambiguous authority to call and hold meetings and hearings, though current rules permit chairs to call public hearings.

There are many reasonable rules already on the books that enable rank-and-file members to have a meaningful role in the Council, including advancing legislation not supported by the speaker. Yet in the past, these rules have not been recognized or, if utilized by members, were too often met with fear of retaliation by the speaker. This Council should make clear that dissent is not only permitted but part of its own new vibrant operation and our local democracy. It was encouraging to see different opinions expressed by members at the last meeting of this committee on the appointment of Department of Investigations Commissioner Mark Peters. That kind of free-flowing discussion should continue to be encouraged both privately and publicly.

Citizens Union also strongly supports other elements of the rules package supported by 32 Council members. We support the proposal that committee chairs should not be removed without a majority vote of 2/3 of the Council on a separate bill. We also support disclosing the Council's budget, including allocations to particular units, divisions and members' offices, in the city's budget. We believe these proposals should be part of any final rules reforms.

Additional Needed Reforms

Beyond the rules reform package supported by 32 Councilmembers in October, **Citizens Union believes the following reforms should be made, in addition to those already detailed above:**

- 1. Ban lulus for all but leadership.** While Speaker Mark-Viverito reduced the range of stipends, created more uniformity, and lowered the amount spent, we still believe lulus serve no meaningful purpose other than as a tool to reward or punish members based on their support, or to give added compensation above and beyond the base. If members are deserving of additional compensation for extra work, then the salary for those positions with more responsibilities should be increased rather than being allocated as a bonus at the discretion of the speaker. Given that 46 members chair committees, subcommittees or task forces, it seems that most members undertake extra work.

This reform can be achieved through a Quadrennial Compensation Commission which makes recommendations on the salaries of elected officials, including how they are paid. Mayor Bloomberg in 2007, pursuant to the city's charter, convened a Quadrennial Commission which called for the abolishment of lulus. The Council ignored its recommendations and voted to continue lulus. This Council in January also voted to continue lulus, even while streamlining and slightly reducing their amounts, despite 35 Councilmembers indicating support for ending lulus for rank-and-file members, as conveyed to Citizens Union and the New York Daily News. The Quadrennial Commission was not called by Mayor Bloomberg in 2011 although the charter required it. It should be called now, and this time lulus should be eliminated once and for all.

- 2. Eliminate the earning of outside income by Councilmembers, or if it does continue, enhance disclosure of outside income.** The mayor, public advocate, comptroller and borough presidents can't earn outside income. Councilmembers earning outside income raises questions about possible or perceived conflicts of interest on the wide variety of legislation they vote on. At the very least, the Council should expand disclosure of outside income by those who earn it. In addition to current requirements, Councilmembers should disclose the number of annual or weekly hours they work at outside jobs, the income earned, the nature of their work, including clients and services rendered, as well as city agencies involved.¹⁵ Councilmembers should also report relatives in City service, the private sector employment of their immediate family and any board or not-for-profit affiliations, and whether those entities do business with the city.

- 3. Establish more meaningful party caucuses.** The Council should make more meaningful the party caucuses it established, as recommended in Citizens Union's 2006 report, and use the internal meetings of the caucus to conference bills. The Speaker should use caucus meetings to take the temperature of individual members on bills that have been heard by committees or are potentially deserving of a hearing. This will enhance cohesiveness of the Council, and allow for rank-and-file members to be heard. Speaker Silver in the Assembly holds conferences at which members sign up to speak on bills and a tally is held indicating the number of members in support and opposition.

Thank you again for holding this hearing and allowing Citizens Union to present its views. We welcome any questions you may have.

¹⁵ Disclosure of clients should apply prospectively to new clients or new matters with old clients. Further exemptions should apply to clients for sensitive family law or criminal matters. Councilmembers should be able to petition the Conflicts of Interest Board in order to keep private names of particular clients on a case-by-case basis.